

S.B. Civil Writ Petition No.3541/2007
Lalit Meena Vs. State of Raj. & Ors.

20.08.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri R.P. Vijay for petitioner.
Shri J.K. Agarwal, PP for State.

Heard learned counsel for the parties.

The petitioner who is a convict and undergoing sentence in Central Jail, Kota has filed this writ petition with the prayer that the respondents be directed to grant him first regular parole. In the reply that has been filed by the respondents it has been stated that the Director General of Prisons, Rajasthan, Jaipur by his order dated 25th November, 2006 declined to grant first regular parole to the petitioner because

of adverse report received from S.P. Baran and District Collector, Baran and Dy. Commissioner Narcotics, Bureau, Baran. They expressed the apprehension that in view of the nature of crime and other aspects of the matter, if released on parole the petitioner might again indulge in the similar offence. It is true that somewhat strict parameters are required to be applied to the case of convicts under NDPS Act for release of parole in view of Section 32 thereof. But at the same time, it cannot be held that parole would not at all be granted to them even if their conduct during imprisonment has been satisfactory and in the past they have not involved themselves in similar cases more than once. The division bench of this Court in

State of Rajasthan Vs. Mana Singh, D.B. Civil Special Appeal No.527/01 decided on 15.1.2002 taking note of the law on the subject, therefore, purposely directed that the issue with regard to release of such convict on parole shall be dealt with at the level of Director General of Prisons. The learned counsel for the petitioner has argued that the petitioner has not been involved in any other case except this in which he is presently serving the sentence and in that too, the psychotropic substance that was recovered at his instance was merely 2 kg of opium. He argued that no other case was ever registered against him, therefore, the petitioner cannot be said to be member of any organized group or gang so as to be permanently debarred from release on

parole. It is argued that out of the total 10 years that has been awarded as sentence, the petitioner has already served more than 5 years in jail and not even once was he released on parole. It is argued that the so called adverse report is mechanically procured and starting from one authority to the last was dittoed by every one without application of mind. The Director General of Prisons therefore did not independently apply his mind to the prayer of the petitioner and rejected the application on mere apprehension that the petitioner might again indulge himself in similar offence which according to him was wholly unfounded.

In the facts of the case, I do not deem it appropriate to express any

opinion on the merits of the case. However, in my view, the request of the petitioner should receive fresh consideration of the Director General of Prisons who shall call for fresh report from the concerned authorities and taking into consideration the aforesaid observations, pass a fresh order in according with law. Such exercise shall be undertaken by him within two months from the date certified coy of this order along with a fresh application is submitted.

With these observations, the writ petition is disposed of.

(Mohammad Rafiq), J.

Rs/-